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NOMINATION OF WALTER T. COX III, TO BE A JUDGE OF THE U.S. COURT OF MILITARY APPEALS

HEARING

BEFORE THE

COMMITTEE ON ARMED SERVICES
UNITED STATES SENATE

NINETY-EIGHTH CONGRESS

SECOND SESSION

ON

NOMINATION OF

WALTER T. COX III, TO BE JUDGE OF THE U.S. COURT OF MILITARY APPEALS

JULY 26, 1984

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NOMINATION OF JUDGE WALTER T. COX III, TO BE A JUDGE OF THE U.S. COURT OF MILITARY APPEALS

JULY 26, 1984

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, DC.

The committee met, pursuant to notice, at 9:02 a.m., in room SR-222, Russell Senate Office Building, Senator Strom Thurmond presiding.

Present: Senator Strom Thurmond.

Staff present: Alan B. Yuspeh, general counsel; Patrick A. Tucker, counsel; Arnold L. Punaro, staff director for the minority; Jeffrey H. Smith, minority counsel; Christine C. Dauth, chief clerk; George K. Johnson, Jr., and James C. Smith III, professional staff members; and Marie Chaillet, staff assistant.

Also present: Les Brownlee, assistant to Senator Warner; Jeffrey B. Subko, assistant to Senator Exon; and Charles C. Smith, assistant to Senator Dixon.

Senator THURMOND. Mr. Cox, your biography and nomination reference will be made a part of the record.

[The nomination reference and report of Mr. Cox follows:]

NOMINATION REFERENCE

AS IN EXECUTIVE SESSION,
SENATE OF THE UNITED STATES,
June 28, 1984.

Ordered, that the following nomination be referred to the Committee on Armed Services:

Walter T. Cox, III, of South Carolina, to be a Judge of the United States Court of Military Appeals for a term of fifteen years, vice William Holmes Cook, retired.

BIOGRAPHICAL SKETCH OF WALTER THOMPSON COX III

Personal information

Born: August 13, 1942, in Anderson, South Carolina.

Married: Vicki Grubbs, daughter of the late Max W. Grubbs of Belton and Anderson, former athletic director, tennis coach and chemistry professor at Anderon College, and Miriam Black Grubbs, whose family ties are in Honea Path and Anderson County.

Children: Lisa, age 18 and Walter, age 16. Both attend Anderson County Public Schools.

Parents: Father, Walter T. Cox, Vice-President of Student Affairs, Clemson University, Clemson, South Carolina; a native of Belton, South Carolina. Mother, Mary Johnson Cox, native of Anderson, South Carolina.

Home address: Route 1, Country Place, Anderson, South Carolina, telephone: (803) 224-1630.

Business address: Post Office Box 4046, Anderson, South Carolina, telephone (803) 261-4059.

Education and honors

High school: D. W. Daniel, Clemson, South Carolina. Graduated June, 1960. Eagle Scout, State President of Beta Club. Delegate 1960 White House Conference on Children and Youth.

College: Bachelor of Science Degree from Clemson University, May, 1964. Majored in Industrial Management, member of Blue Key, Tiger Brotherhood, Scabbard and Blade, Central Dance Association, Block C Club, Delta Kappa Alpha (now Alpha Tau Omega), Distinguished Military Graduate, Cadet Colonel Army ROTC, awarded Commander's Sabre.

Law School: Juris Doctor Degree *cum laude* from University of South Carolina School of Law June, 1967. Graduated first in class, National Moot Court Competition, American Jurisprudence awards in Corporation and Estate Taxation.

Other: Graduate of Defense Language Institute (German) September, 1969. Judge Advocate General's School. University of Virginia, Basic Course August, 1967, Procurement Law, October, 1968.

Legal experience

From 1964 to 1972, Judge Advocate General's Corp. (1964–1967, excused leave to U.S.C. Law School).

Admitted to South Carolina Bar September, 1967.

Law Firm: Partner, Jones, McIntosh, Threlkeld, Newman and Cox from 1973–1978.

Civil Trial Experience: Have tried cases in all Courts, including Magistrates Court, County Court and Court of Common Pleas in Anderson, Oconee, Pickens, Greenville, and Spartanburg Counties. Have tried civil cases in United States District Court. Have represented clients before South Carolina Supreme Court and before Fourth Circuit Court of Appeals.

Criminal Trial Experience: Have represented clients in Court of General Sessions in Anderson, Oconee, Pickens, Greenville and Newberry Counties; Juvenile Court of Oconee and Anderson Counties; Magistrate and City Recorder Courts. Have defended clients in United States District Court.

Military Legal Experience: Involved in numerous trials as both trial and defense counsel and as Military Judge; Government and Respondents counsel in Administrative Law Hearing. Served as Liaison Officer to Minister of Justice for State of Bavaria and as a certified NATO Trial Observer. Served as one of three negotiators for new insurance tariffs for U.S. Forces in Germany; Military Affairs Advisor, Headquarters, U.S. Army Europe. Officer in Charge of Munich, Germany, legal office with responsibility for International Law, Procurement, claims and criminal matters in Southern Bavaria, Liaison Officer to Austria.

Judicial experience

Elected Resident Judge, 10th Judicial Circuit, April, 1978. Served as Acting Associate Justice of South Carolina Supreme Court, Judicial Council, Circuit Court Advisory Committee, Hearing Officer, Judicial Standards Commission.

Bar association activities

Organizations: South Carolina Bar, Anderson County Bar, Anderson County Young Lawyers, American Bar Association, South Carolina Trial Lawyers.

Service: Member House of Delegates of South Carolina Bar, Member of Board of Commissioners on Grievances and Discipline.

Anderson County community service

Past Member of Anderson Salvation Army Advisory Board; American Red Cross Advisory Board; Director, Chamber of Commerce; Chairman, American Cancer Society Educational Fund Drive, Appalachian Region and Anderson County; Anderson Rotary Club.

Sports and hobbies

Member of 1961–1963 Clemson University Football Team; All State Football, 1959; Captain of 1959 S. C. Shrine Bowl Team; All American 1959; Wig Wam All American Classic, Baton Rouge, Louisiana, 1960; Winner Upper State Track and Field in Shot-put and Broad Jump, Runner-up in discus; Finalist in State in Shot-put and Discus, 1960; enjoy tennis and golf; Instrument rated Private Pilot.

OPENING STATEMENT BY SENATOR THURMOND, PRESIDING

Senator THURMOND. The committee will come to order.

The committee meets this morning to consider the nomination of Walter Thompson Cox III to be a judge of the U.S. Court of Military Appeals.

It is a special pleasure for me to be able to introduce Judge Cox to the committee. He is a native and resident of Anderson, SC. A graduate of Clemson University in 1964, Judge Cox earned his law degree at the University of South Carolina School of Law, from which he graduated first in his class.

He served in the U.S. Army as an officer in the Judge Advocate General Corps.

He was a partner in a South Carolina firm for a number of years and has extensive trial experience in civil and criminal cases.

In 1978, Judge Cox was elected as a resident judge of the South Carolina 10th Judicial Circuit. He has experience as an acting associate judge of the South Carolina Supreme Court and is active in various bar associations.

I am particularly proud that the President has chosen a distinguished citizen, attorney, and jurist from South Carolina for the important position of judge on the Court of Military Appeals.

Judge Cox has excelled in all that he has undertaken, and he is the type of person who has demonstrated intellect, judicial temperament, and leadership. These qualities will enable him to serve with distinction as a member of this Federal court.

Judge Cox, the committee would be glad to receive whatever comments you might like to make at this time.

We welcome you here and hope you will enjoy your service on this important court.

Do you have any statement you wish to make at this time?

STATEMENT OF JUDGE WALTER T. COX III

Judge Cox. Senator Thurmond, I have no particular statement other than to say that I look forward to serving our country as a judge on the U.S. Court of Military Appeals.

I spent about 9 years on active duty with the military and received my legal training while a member of the military. I have always kept up a keen interest in the development of military law. I am quite excited about the position.

Senator THURMOND. I believe you have some members of your family here. Would you care to introduce them?

Judge Cox. Yes. I am very pleased to have my wife, Vicki Cox, who is a stock broker with Interstate Securities Corp.; also my daughter, Lisa, and a friend of the family, Sibylle Bach, a native of Germany, who is visiting with our family this summer. We are pleased to have them with us.

Senator THURMOND. We are pleased to have all of you here this morning.

I have just a few questions here I wish to propound to you.

Judge Cox, you bring to this job 5 years' experience as a member of the Army's Judge Advocate General Corps, as well as your extensive experience in South Carolina as a trial attorney and judge.

Would you briefly describe your views about the proper role of the military justice system in our Armed Forces and how you think the role may differ, if at all, from that of our civilian criminal justice system?

Judge Cox. The Armed Forces cannot survive without good order and discipline. To assure good order and discipline, we need a sound and fair military justice system.

I don't think there ever should be any consideration of abolishing an internal method of discipline and justice within the military. Having had some 5 years of actual trial experience in the military and having served about 6½ years as a circuit court judge, I can say without hesitation that the military justice system is comparable, if not superior, to our civilian system.

The military justice system has been a leader in giving individual rights and freedom. I am proud to be associated with it.

Senator THURMOND. Judge Cox, since its inception in 1951, the Court of Military Appeals has served as the "Supreme Court" of the military justice system and, until Congress changed the law last year to permit Supreme Court review of the court's decisions, those decisions could not be reviewed by Federal civilian courts except through collateral review.

Furthermore, the court provided the only review by a court composed of civilians of court-martial convictions.

What beliefs do you bring to this job concerning the role of the Court of Military Appeals in the military justice system?

Judge Cox. One of the fundamental principles that our Founding Fathers had concerning civilian control of our military was the President of the United States being the Commander-in-Chief with civilians holding the positions of Secretary of Defense, Army, Navy, and Air Force.

I think civilian review of the military courts is absolutely essential and in accord with the fundamental principles that our forefathers had. I am very much in favor of that.

Senator THURMOND. Judge Cox, in recent years, the Court of Military Appeals has been plagued by a number of resignations by judges of the court before the termination of their appointments.

Blame for this problem was placed upon the fact that some appointments were made for less than a full 15-year term and because the retirement system for members of the court was not sufficiently attractive to retain judges for full terms.

In the past 2 years, Congress has taken action to provide that all appointments are for full 15-year terms and to enhance the retirement system for Court of Military Appeals judges.

In fact, I believe now they are on the same basis as Members of the Congress.

Would you give us your views on whether you come to this job committed to serving a full 15-year term and what effects the length of that term and the retirement system of the court had upon your views of the attractiveness of this position?

Judge Cox. I have every intention of serving the full 15-year term. The prospects of having a full 15-year term, of course, made it much more attractive than serving a partial term with the prospect of maybe or maybe not being reappointed.

I think the full 15-year term is certainly an attractive feature. I am embarrassed to say or candid to say I did not know, and I don't know to this day, what the retirement system is. That did not play any role whatsoever in my decision.

I do, think, however, that the prestige of the court would be enhanced greatly if the U.S. Court of Military Appeals was put on the same parity as the various courts of appeals throughout the country with similar status, similar retirement, similar pay. That is something that might be considered.

Senator THURMOND. This military court is the highest military court in the United States. There is only one court above that and, of course, that is the Supreme Court. There are only three judges on this court. So, they exert tremendous influence. Their actions determine largely the strength of the military justice system in the Armed Forces.

I want to compliment you for being appointed by President Reagan to this poistion. I hope and predict that you will render great service there. I am sure you will, and we will all be very proud of you.

Judge Cox. I certainly appreciate the confidence you have shown in me, Senator.

Senator THURMOND. Senator Nunn called and asked me to express his regret that he could not be here this morning. He is the ranking Democratic member on the committee. He asks that I announce his support for the nomination.

Senator Nunn said he has reviewed the nominee's background and qualifications and is pleased that such a qualified and experienced individual has been nominated, and he offers his congratulations to you.

Judge Cox. Thank you, Senator.

Senator THURMOND. I don't believe the Armed Services Committee is going to meet again this week. So I am going to request that this nomination be polled, hoping that we can get action on it as soon as possible.

Mr. YUSPEH. We will poll it out today, Senator.

Senator THURMOND. Thank you very much.

[The following prepared statement submitted by Representative Butler Derrick of South Carolina was submitted for the hearing record:]

PREPARED STATEMENT OF U.S. REPRESENTATIVE BUTLER DERRICK

Mr. Chairman: It is indeed a pleasure to have an opportunity to offer my comments to the Committee on Armed Services today as you consider the confirmation of a native son of South Carolina to the U.S. Court of Military Appeals.

Judge Cox was born, raised, and educated in South Carolina. And it is with a great pride I note that most of Walter Cox's career has been spent in Anderson, South Carolina, in the heart of the Third Congressional District in South Carolina.

Since 1978, Judge Cox has served with distinction as a Resident Judge of the 10th Judicial Circuit in South Carolina. Upon graduating first in his class from the University of South Carolina School of Law, Judge Cox has served the bar in a variety of distinguished capacities.

His experience includes service in the Judge Advocate General Corps, partnership in a South Carolina law firm during which time he gathered extensive criminal and civil trial experience, service as a Resident Judge, and service as an Acting Associate Judge of the South Carolina Supreme Court.

Mr. Chairman, Walter Cox and his family have been longtime friends of mine. It has been my privilege to know his parents, and I personally know Walter Cox to be a man of character and distinction.

I am pleased to appear before you today to urge, without hesitation, the confirmation of this outstanding South Carolinian. President Reagan has indeed made a extremely wise choice in the nomination of Walter Cox to the Military Court of Appeals, and I am confident that Judge Cox will serve on this panel with the same level of dedication, commitment and excellence that has marked his service in South Carolina.

Senator THURMOND. There appears to be no other business before the committee this morning so we now stand adjourned.

[Whereupon, at 9:13 a.m., the committee adjourned, subject to the call of the Chair.]

[The nomination of Judge Walter T. Cox III was reported to the Senate by Senator Thurmond on July 26, 1984, with the recommendation that the nomination be confirmed. The nomination was confirmed by the Senate on July 27, 1984.]

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